

## Important Documents

# Several Opinions of the State Council on Accelerating IP Power Construction under the New Conditions

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People's governments of all provinces, autonomous regions and municipalities directly under the Central Government, and all ministries, commissions and organizations directly under the State Council,

Since the implementation of National IP Strategy, the level of IP creation and utilization has been increased significantly, IP protection has been improved remarkably, social awareness about IP has been comprehensively enhanced and the IP work has seen enormous progress, playing an important role in promoting economic and social development. Meanwhile, China has faced many problems such as lacking of high quality IP, weak IP protection, rampant infringement and decreased passion for innovation which need to be addressed urgently. At present, a new round of global technological revolution and industrial transformation is coming into play. As China is accelerating the transformation of the mode of economic development, there has been an obvious trend of innovation-oriented development and IP has been playing a more prominent role in stimulating innova-

tion. In a bid to deeply implement innovation-driven development strategy, deepen the reform in the field of IP and accelerate the construction of IP power, the following opinions are hereby given.

### **I. General Requirements**

(I) Guiding Ideas. Thoroughly implement the spirit of the 18th National Congress of the Communist Party of China, the 2nd, 3rd, 4th and 5th plenary sessions of the 18th CPC Central Committee (CCCCPC), follow the "Four Comprehensives" Strategic Blueprint as well as decisions and arrangements of the Central Committee of the Communist Party of China and the State Council, deeply implement National IP strategy, deepen IP reform in key sectors, promote IP creation and utilization, carry out more rigid IP protection, optimize IP public services, promote the development of new technology, industry and business model with great vitality, enhance international level of industry development, safeguard and stimulate mass entrepreneurship and innovation, provide strong support for the implementation of innovation-driven



development and lay a more solid foundation for maintaining a medium–high–level growth rate and moving toward a medium–high–level of economic development, and achieving the “Two Centenary” Goals and realizing the Chinese Dream of the great rejuvenation of the Chinese nation.

(II) Basic Principles. Adhere to strategic guidance. Follow the strategy of innovation–driven development and “the Belt and Road Initiative”, improve the capability of IP creation, utilization, protection, administration and service, deepen the implementation of IP strategy, improve IP quality, make a transition from a big IP country to an IP power, from having many patents to having quality patents, carry out a new round of high–quality opening–up and promote sustainable and healthy economic development.

Adhere to reform and innovation. Accelerate the improvement of IP system with Chinese characteristics, reform and innovate the institutional mechanism, break barriers that restrict the development of IP undertaking, focus on promoting the experiment in innovation and reform experiments, strengthen knowledge–oriented value of distribution system, give full play to the vital role of IP in stimulating innovation and promoting fair sharing of innovative achievements, promote the improvement in quality and efficiency of enterprises and the industrial transformation and upgrading.

Adhere to market orientation. Give play to the decisive role of market in allocating resources, strengthen the position and leading role of enterprises as main innovators, and promote the rational flow and efficient allocation of innovative factors. Accelerate streamlining administration and delegating powers to

lower–levels, while strengthening regulation and optimizing the service. Intensify IP policy support, public services and market supervision. Focus on building a just and fair, open and transparent legal and market environment and promote mass entrepreneurship and innovation.

Adhere to overall consideration. Integrate domestic and international innovative resources; nurture a number of IP–leading development regions, foster national strength in IP. Strengthen global open and innovative collaboration, actively engage in and promote the formulation and perfection of international IP rules, build a fair and reasonable international economic order, create favorable conditions for market players to participate in international competition, realize quality imports and exports, and seek mutual benefits and win–win results.

(III) Main Objectives. By 2020, decisive results must be achieved in reforms of key areas and links relating to IP. Granting, confirmation and law enforcement system of IP must be further improved, IP system and mechanism that matches powers with responsibilities, divides work in a rational way, integrates power and responsibility, operates efficiently and provides legal guarantee must be established, China’s capabilities in IP creation, utilization, protection, administration and services must be improved significantly, the environment for innovation and entrepreneurship must be optimized to create new IP advantages in international competition, China’s IP governance system and capacity for governance must be modernized. A batch of provinces and cities with strong IP capability must be built, the position of being a big IP country must be consolidated so as to lay

a solid foundation for the construction of world-class IP power with Chinese characteristics.

## **II. Promote the reform of IP administration system and mechanism**

(IV) Study and refine the IP administration system. Improve the system of inter-ministry joint conference for implementing the national IP strategy with leaders from the State Council as convener. Explore to conduct research on the reform of IP administration system and mechanism. Authorize localities to carry out IP reform experiments. Encourage local governments where conditions permit to introduce pilot projects for integrated IP administration reform.

(V) Improve the management of IP service sector and social organizations. Lower the threshold for IP services, promote high-quality and high-efficiency development of service sector, speed up the construction of cluster areas for IP services. Expand the opening of patent commissioning, relax the restrictions on shareholders of patent agencies or partners. Explore to carry out pilot programs that feature “many associations in one industry” for IP services. Improve the system for information disclosure on professional practices, publish related information on credit ratings of IP agencies and practitioners in a timely manner. Standardize the fees charged by the organization for collective administration of copyright, improve the income distribution system so as to enable copyright holders to get more benefits.

(VI) Establish an IP appraisal system for major economic activities. Study and formulate IP appraisal policies. Perfect the guidelines on IP appraisal and regulate the scope and procedure of the appraisal. Carry out IP appraisal centering on national planning

of major industries and major investment projects in high-tech sector, establish an IP target appraisal system of national science and technology programs, explore to launch IP appraisal pilots for major scientific and technological activities, establish a publication system of IP appraisal and reporting in key areas, increase the efficiency of innovative and reduce the risk of industrial development.

(VII) Set up an evaluation system for innovation-driven development with focus on IP. Refine and develop the evaluation system. Integrate IP products and indices into the national economic accounting system and the national economic and social development plan. Publish an annual IP development report. When making a comprehensive evaluation of the Party and government’s leading groups and leading officials, focus on factors such as encouraging innovation and creation, protecting IP, strengthening IP transformation and utilization and building a sound environment. Explore the establishment of an evaluation model of state-owned enterprises that pays equal attention to business performance, IP and innovation. Increase the appraisal weight of IP in national reward systems of various types when setting IP reward items according to the relevant state regulations.

## **III. Carry out rigid IP protection**

(VIII) Enact harsher punishments for IP infringements. Promote the legalization of IP protection. Give play to the leading role of judicial protection, improve the administrative enforcement and judicial protection approaches that are complementary and coherent. Raise the upper limit on legal compensation for IP infringement, claim punitive damages related to serious willful infringements and require the infringers



to afford reasonable expenses. Further promote the information disclosure of IP administrative infringement cases. Perfect the mechanism for rapid rights defense of IP. Strengthen the customs protection of IP enforcement. Intensify the IP enforcement in international exhibitions and e-commerce. Carry out law enforcement jointly with relevant international organizations and foreign enforcement departments. Enhance international cooperation in IP judicial protection, promote China to be an important country to solve international IP disputes and create an open and innovative environment with more international competitiveness.

(IX) Strengthen the fight against IP crime. Seriously crack down on IP infringement and crime in accordance with the law with focus on industrialized chain IP criminal networks. Further strengthen the link between IP administrative enforcement and criminal justice, intensify the transfer of suspected criminal cases. Refine the mechanism for foreign-related IP enforcement, enhance the international cooperation in criminal enforcement and strengthen the investigation and handling of foreign-related IP criminal cases. Reinforce the judicial assistance with relevant international organizations in fighting against IP crimes, enhance the case reporting and intelligence exchange.

(X) Establish and refine the early-warning and prevention mechanism for IP protection. Include intentional IP violations into corporate and individual credit records. Promote improving the laws and regulations on trade secret protection. Strengthen personnel exchange and protection of trade secret in technological cooperation. Carry out a social satisfaction survey on IP protection. Build a working mechanism for

collecting information on origins of counterfeit products, publish the annual report on China's customs protection of IP. Intensify IP administration and protection on large-scale specialized markets. Give play to the active role of industry organizations to protect IP, improve the capability of early-warning and prevention. Enhance IP protection in online creation and R&D achievements by using information technology such as big data, cloud computing and Internet of Things. Step up IP protection assistance to small and micro enterprises, create an environment for innovation, entrepreneurship and business operation that features fair competition and supervision.

(XI) Strengthen the IP protection for innovative achievements in new business models and new areas. Refine related laws for new varieties of plants, biological genetic resources, database protection and IP rights of national defense. Do a good job in legislation on geographical indications at appropriate times. Study and improve the IP protection system for business mode and for design patents of practical works of art. Strengthen the research on rules of IP protection for internet, e-commerce, big data, promote the improvement in relevant laws and regulations. Formulate policies on IP protection for popular entrepreneurship, crowd-outsourcing, collective support and crowd-funding.

(XII) Regulate the abuses of IP. Improve the legal system on regulating abuses of IP, formulate a guideline for anti-trust enforcement. Refine the supervision mechanism on IP anti-monopoly, investigate and handle the monopoly behaviors that feature abuses of IP in order to exclude and restrict the competition in accordance with the law. Improve the policies

on fair, reasonable and non-discriminatory access of standard essential patents and applicable rules on ceasing infringement.

#### **IV. Promote IP creation and utilization**

(XIII) Improve the IP examination and registration system. Build a fast channel for registering computer software copyrights. Optimize the process and style of patent and trademark examination, realize IP online registration, e-filings and paperless examination and approval. Refine the mechanism for IP examination and cooperation. Establish a centralized examination system for patent applications in major competitive industries, set up a working mechanism for patent examination relating to industry safety. Reasonably extend the scope of patent examination with its authority through procedures for determining the rights, perfect the system on patent document revision after granting the rights. Expand the international cooperation network of “Patent Prosecution Highway”, accelerate the construction of a world-class patent examination office.

(XIV) Improve the service invention system. Encourage and guide the enterprises and institutional organizations to establish and refine the management system of service inventions on invention reports, rewards and remuneration and dispute settlement. Explore to refine the income distribution mechanism for innovation achievements, raise the weight of the income of excellent professionals and chief inventors, safeguarding the legal rights and interests of service inventors. Encourage state-owned enterprises to empower their subordinate scientific research institutes to handle IP rights and distribute their incomes in accordance with relevant policies and regulations.

(XV) Promote the reform of patent licensing system. Intensify the diffusion of patents through patent licensing. Study and formulate the system for patent licensing, encourage more patent holders to make their patents public. Improve the procedures of initiating, approving and implementing patent compulsory licensing. Encourage institutions of higher education and scientific research institutes to support the staff and undergraduates to engage in innovation and entrepreneurship through free patent licensing.

(XVI) Improve the construction of the IP trading platform. Establish an IP operation and service system, accelerate the building of a national public service platform for IP operation. Innovate in IP investment and financing products, explore the securitization of IP, refine the mechanism for IP credit guarantee, promote the development of new modes such as venture loan, venture insurance and venture debt. Give guidance to angel investment, capital investment and private equity in order to increase the investment on high-tech fields in comprehensive innovation and reform experiment zones. Refine the regulations of accounting standards, promote enterprises to assess and manage IP assets in a scientific way. Promote institutions of higher education and scientific research institutes to establish and improve the institutions for IP transfer and transformation. Support the exploration on crowd-funding and crowd-outsourcing of IP creation and operation, and facilitate the integrated development of “Internet plus IP”.

(XVII) Cultivate IP-intensive industries. Explore the formulation of IP-intensive industry catalogue and development planning. Guide social funds to be invested in IP-intensive industries through us-



age of private equity. Strengthen the support of government purchasing for IP-intensive products. Implement the pilot programs to build clusters and demonstration bases for IP-intensive industries, carry out the IP cluster-type administration, promote the advanced manufacturing industry to speed up the development in a bid to move up to the medium and high level.

(XVIII) Enhance the additional value and international influence of IP. Implement the project for improving patent quality, cultivate a batch of core patents. Beef up the protection for industrial design patents in light industry, textiles and apparel. Deepen the work on trademarks to make farmers rich. Strengthen the exploitation and utilization of intangible cultural heritages, folklores and traditional knowledge. Promote the integrated development of cultural creation, design service and relevant industries. Support enterprises to utilize IP for overseas equity investment. Actively participate in the formulation of international standards, promote the transfer of innovative technology with IP rights into standards. Support research institutions and social organizations to draft international standards for brand evaluation and to establish an evaluation system of brand value. Support enterprises to set up a brand management system, encourage enterprises to purchase overseas famous brands. Protect and inherit China's time-honored brands, vigorously facilitate enterprises that engage in traditional Chinese medicine, catering and arts and crafts to go global.

(XIX) Strengthen the disclosure and utilization of IP information. Promote the disclosure and sharing of patent data information resources, enhance the ca-

pability for using the big data. Establish an information disclosure system for IP formed by fiscal aid projects. Accelerate the implementation of the IP information disclosure system for listed companies. Regulate the procedures and contents for IP information collecting. Refine the system for putting the information related to IP licensing on record and making it public. Speed up the construction of the platform for IP information service that stimulates connection and communication. Realize free or low-cost disclosure of patents, trademarks, copyrights, layout designs of integrated circuit, new varieties of plants and geographical indications. In accordance with the law, timely publish the information about patent examination process. Perfect the public service network for IP information.

#### **V. Strengthen overseas IP layout and risk prevention in key industries**

(XX) Enhance overseas IP layout and planning in key industries. Step up the standardization and patentability of innovative achievements. Promote the establishment of a coordination mechanism for standard research and patent layout. Study and formulate the guideline for standard essential patent layout. Draft and issue the guidance on practices of patent applications in relevant countries and regions. Centering on major fields of strategic emerging industries, set up a working mechanism for the industrial development of patent navigation, carry out patent navigation projects concerning the categories on industry planning and enterprise operation, draw the patent navigation map of relevant countries and regions to facilitate industrial development of China, promote China's industries to deeply integrate into the global chain for industry,

value and innovation.

(XXI) Expand the overseas channel for IP layouts. Promote enterprises, scientific institutes and institutions of higher education to jointly develop overseas patent layout. Encourage enterprises to establish patent purchasing and storage funds. Beef up the guidance on IP layout of enterprises, explore to set up an IP layout design center in industry parks and major enterprises. Draw up the guideline for IP transnational licensing and transfer according to different categories, formulate and release the model contract for IP licensing.

(XXII) Improve the early-warning system for overseas IP. Establish and refine the standard system for IP administration and service. Support industry associations, professional organizations to track and release the IP information and competitive dynamics in key industries. Formulate and refine the country-based guidelines for trade investigation and risk prevention related to IP. Improve the service platform for overseas IP information. Release the information on IP systems and environments in relevant countries and regions. Establish and perfect a mechanism for submitting the information on overseas IP issues and cases involving enterprises, strengthen the track and research on important IP cases and timely release alert notifications.

(XXIII) Enhance the capability for overseas IP risk prevention and control. Study and improve the systems related to technology import and export management, optimize and streamline the reviewing process of technology import and export. Refine the administration system for foreign transfer and exclusive licenses of IP formed by financial aid technology pro-

jects. Formulate and put in place due diligence in IP work. Support legal service agencies to provide comprehensive and high-quality IP legal services. Explore to preserve IP evidences and testimonial materials through notarization. Promote enterprises to set up IP analysis and review mechanism with focus on activities such as talent introduction, international exhibition, import and export of products and technologies, in a bid to improve the capabilities of enterprises in addressing international IP disputes.

(XXIV) Strengthen the overseas IP rights-defense and assistance. Formulate and implement the policies to deal with major IP disputes in overseas industries. Study the human resources for IP affairs stationed in international organizations, major countries and regions. Release the catalogue for institutions that engage in overseas and foreign-related IP services and rights-defense and assistance, promote the formation of overseas IP service network.

## **VI. Enhance the foreign cooperation in the field of IP**

(XXV) Establish more equitable international IP rules. Participate in the development agenda under the framework of the United Nations, promote the implementation of *the Declaration on TRIPS Agreement and Public Health*, and the adoption of *the Beijing Treaty on Audiovisual Performances*, take part in the international negotiations on *Patent Cooperation Treaty*, *WIPO Treaty on the Protection of the Rights of Broadcasting Organization*, *the Convention on Biological Diversity*, accelerate the process of joining *the Hague Agreement concerning the International Deposit of Industrial Designs* and *the Marrakech Treaty*, promote the development of international IP rules toward



general preference, inclusiveness, balance and effectiveness.

(XXVI) Beef up the construction of the mechanism for IP foreign cooperation. Strengthen the cooperation and exchange with WIPO, WTO and related international organizations. Deepen the cooperation with departments of IP, trade and customs in major countries; consolidate the good relations with traditional partners. Promote related international organizations to set up an IP arbitration and mediation center. Enhance the protection and cooperation on domestic and foreign products of famous geographic indications; promote the internationalization of products of geographic indications. Actively promote the IP cooperation under the framework of regional comprehensive economic partnership and Asia–Pacific Economic Cooperation, explore the establishment of IP regional cooperation mechanism for countries and regions along the “Belt and Road”.

(XXVII) Increase the assistance for developing countries in the field of IP. Support and assist developing countries in improving the capabilities in IP. Encourage the license of urgently–needed patents to least developed countries at favorable prices; strengthen the IP diploma education and short–term training for developing countries.

(XXVIII) Expand IP public diplomatic channel. Expand the scope for enterprises to participate in the revision of international and regional IP rules. Promote the domestic service agencies and industrial alliance to enhance cooperation and exchange with related international organizations. Establish an IP think–tank with international standards, set up the discussion and exchange mechanism on IP topics in Boao

Forum for Asia and actively carry out IP discussions and exchanges with international influences.

## **VII. Strengthen organization, implementation and policy guarantee**

(XXIX) Strengthen organization and leadership. All regions and relevant departments shall attach great importance to it, strengthen organization and leadership, and formulate implementation programs and supportive policies in a bid to thoroughly put in place all measures. Under the leadership of the State Council, the Inter–Ministry Joint Conference Office for Implementing the National IP Strategy shall strengthen overall planning and coordination, study and put forward concrete policy measures such as the “13th Five–year” Plan on IP work, coordinate and solve major issues and beef up the guidance, supervision and examination over implementation of relevant policies and measures.

(XXX) Step up fiscal, tax and financial support. Apply government funds to guide and facilitate property rights of technological achievements and industrialization of IP rights. Implement policies to offset taxable incomes with R&D expenses, deduct the eligible IP costs according to regulations. Formulate the measures for reducing charges for patents, rationally reduce the charges for patent application and renewal. Actively promote the work on overseas IP infringement liability insurance. Deeply carry out pilot projects for IP pledging and financing compensation funds and for IP operation funds in major industries.

(XXXI) Reinforce the IP talent team construction. Beef up the construction of IP–related courses, improve the mode of graduate cultivation of combination of product, teaching and research, add the spe-



cialty of IP in the course of management and economics, strengthen the IP diploma education. Step up IP training to various innovative talents. Encourage domestic IP talents to get relevant overseas qualification certificates. Encourage all regions to introduce high-end IP talents, and give correspondent treatment to them by reference to relevant talent introduction plans. Explore to establish an international IP talent pool and an information platform for finding talents through the utilization of IP. Further improve the system for IP vocational level evaluation, stabilize and expand the IP talent team. Select and cultivate a batch of mentors for IP entrepreneurship, and strengthen the guidance on youth entrepreneurship.

(XXXII) Strengthen publicity and guidance. All regions and departments shall step up IP cultural construction, beef up IP publicity, extensively carry out universal education on IP, strengthen IP publicity for public welfare and consulting service, enhance IP awareness in the society, make the concept featuring respecting knowledge, encouraging innovation and fostering integrity gain more popularity, creating a sound atmosphere for speeding up the construction of IP power.

The State Council  
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